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OFFICE OF PETITIONS

In re Application of	:	
Shiv Kumar Agarwal et al	:	DECISION DISMISSING
Application No. 10/827,368	:	PETITION UNDER
Filed: April 20, 2004	:	37 CFR 1.55(c)
Attorney Docket No. 115683.01	:	

This is a decision on the renewed petition, filed November 5, 2004, under 37 CFR 1.55(c), requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 119 (a) - (d) for benefit of the filing date of the following foreign application: Indian Application No. 266/MAS/2002, filed October 4, 2002.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

- (1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
- (2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date **and be included either in an oath or declaration (37 CFR 1.63(c)(2) or in an Application Data Sheet (37 CFR 1.76(b)(6))**;
- (3) the surcharge of \$1,330.00, as set forth in 37 CFR 1.17(t);
- (4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and
- (5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a) - (d) is **dismissed**. The petition lacks item (2).

In view of the above, compliance with 37 CFR 1.63 must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled “Renewed Petition under 37 CFR 1.55(c)” and should be submitted within two months from the mail date of this decision. *Note* 37 CFR 1.181(f).

Further correspondence with respect to this matter should be addressed as follows:

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Any inquiries pertaining to this matter may be directed to Wan Laymon at (571) 272-3220.



Frances Hicks

Lead Petitions Examiner
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for Patent Examination Policy